to 25 which discusses how applicants' interpolation model is used. ("The interpolation model is used by a fitting optimization algorithm that determines measurement parameters of a sample based on a measured optical signal characteristic of the sample.") The Examiner appears to rely on that quote to define what is meant by an "interpolation model." Based on that definition, the Examiner then states (without any apparent support) that Maris teaches a model that "defines a substantially continuous function which intersects with the interpolation points."

The logical flow of the Examiner's position seems flawed.

The quote selected by the Examiner merely describes the general concept of how an interpolation model is used by a fitting algorithm. It does not define the preferred and claimed interpolation model.

Neither of the Maris patents disclose an interpolation model that defines a substantially continuous function which intersects with the interpolation points. It is unclear how the Examiner can rely on teachings in applicants specification to address the inadequacies of the prior art. Is the Examiner saying that all interpolation models have this characteristic? As noted in applicants' specification, this is not the case.

Since the Maris patents are silent on the type of interpolation model used, they simply cannot form the basis of a rejection of claims which provide a very specific definition of the type of interpolation model which should be used. Accordingly, it is submitted that independent claims 1 and 5, along with the claims depending therefrom define patentable subject matter and allowance thereof is respectfully solicited.
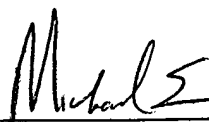
Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated:_____3/3/05_____   By:_____Michael_____
                                    Michael A. Stallman
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